

REMARKS

Favorable reconsideration of this application is respectfully requested in view of the following remarks.

Status of Claims

Claims 1-20 are currently pending in the application of which claims 1 and 17 are independent. No claim amendments have been made and therefore no new matter has been introduced.

Summary of the Office Action

Claims 1-3, 7-10, and 12-15 were rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over U.S. Patent No. 6,611,501 to Owen et al. (hereinafter “Owen”) in view of U.S. Patent No. 7,069,304 to Eichstaedt et al. (hereinafter “Eichstaedt”).

Claims 4-6, 11, 16, and 20 were rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Owen in view of Eichstaedt and further in view of U.S. Patent No. 6,385,646 to Brown et al. (hereinafter “Brown”).

The rejections above are respectfully traversed for at least the reasons set forth below.

Claim Rejections Under 35 U.S.C. §103(a)

The test for determining if a claim is rendered obvious by one or more references for purposes of a rejection under 35 U.S.C. § 103 is set forth in *KSR International Co. v. Teleflex Inc.*, 550 U.S. 398, 82 USPQ2d 1385 (2007):

“Under §103, the scope and content of the prior art are to be determined; differences between the prior art and the claims at issue are to be ascertained; and the level of ordinary skill in the

pertinent art resolved. Against this background the obviousness or nonobviousness of the subject matter is determined. Such secondary considerations as commercial success, long felt but unsolved needs, failure of others, etc., might be utilized to give light to the circumstances surrounding the origin of the subject matter sought to be patented.” Quoting *Graham v. John Deere Co. of Kansas City*, 383 U.S. 1 (1966).

As set forth in MPEP 2143.03, to ascertain the differences between the prior art and the claims at issue, “[a]ll claim limitations must be considered” because “all words in a claim must be considered in judging the patentability of that claim against the prior art.” *In re Wilson*, 424 F.2d 1382, 1385. According to the Examination Guidelines for Determining Obviousness Under 35 U.S.C. 103 in view of *KSR International Co. v. Teleflex Inc.*, Federal Register, Vol. 72, No. 195, 57526, 57529 (October 10, 2007), once the *Graham* factual inquiries are resolved, there must be a determination of whether the claimed invention would have been obvious to one of ordinary skill in the art based on any one of the following proper rationales:

(A) Combining prior art elements according to known methods to yield predictable results; (B) Simple substitution of one known element for another to obtain predictable results; (C) Use of known technique to improve similar devices (methods, or products) in the same way; (D) Applying a known technique to a known device (method, or product) ready for improvement to yield predictable results; (E) “Obvious to try”—choosing from a finite number of identified, predictable solutions, with a reasonable expectation of success; (F) Known work in one field of endeavor may prompt variations of it for use in either the same field or a different one based on design incentives or other market forces if the variations would have been predictable to one of ordinary skill in the art; (G) Some teaching, suggestion, or motivation in the prior art that would have led one of ordinary skill to modify the prior art reference or to combine prior art reference teachings to arrive at the claimed invention. *KSR International Co. v. Teleflex Inc.*, 550 U.S. 398, 82 USPQ2d 1385 (2007).

Furthermore, as set forth in *KSR International Co. v. Teleflex Inc.*, quoting from *In re Kahn*, 441 F.3d 977, 988 (CA Fed. 2006), “[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasonings with some rational underpinning to support the legal conclusion of obviousness.”

Therefore, if the above-identified criteria and rationales are not met, then the cited reference(s) fails to render the claims obvious and, thus, the claims are distinguishable over the cited reference(s).

Claims 1-3, 7-10, 12-15, and 17-19

Claims 1-3, 7-10, 12-15, and 17-19 were rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Owen in view of Eichstaedt. The Applicants respectfully traverse the rejection.

The heading on page 2, paragraph 2 of the Office Action again does not recite claims 17-19, but the rejection that follows that heading discusses these claims. As such, it appears that the heading on page 2, paragraph 2 of the Office Action contains a typographical error because that heading should have recited claims 17-19.

It is respectfully submitted that Owen fails to at least disclose or suggest the features of independent claims 1 and 17. Instead, Owen discloses a connection management system for setting up particular connection configurations between users in a communications network. *Owen*, Abstract. In this regard, Owen discloses user agents 107 that represent and act on behalf of a user to perform various functions, for instance, as listed in column 14, lines 30-44 of Owen. As recited therein, the user agents may be set to control when calls are received or the types of information that may be communicated to a caller by a callee. Owen also discusses terminal agents 102 that are responsible for representing a terminal, such as, obtaining a precise location of a terminal. *Owen*, column 12, lines 16-20.

The Office Action appears to agree that the user agent in Owen cannot be equated with the claimed assistant entity. Office Action at 4. In particular, the Office Action admits

that “Owen fails to teach explicitly selecting based upon the determine context.” *Id.* To be clear, the user agent in Owen is not selected based upon a determined context of an existing communication session by a service system. Instead, each user has their own user agent, which each user triggers when making a call. *Owen*, column 18, lines 35-36. See also, *Owen*, column 12, lines 4-15, which states that the “user agent 107 represents and acts on behalf of a user. It receives requests from users to establish service sessions, or to join existing service sessions, and creates or negotiates with existing service sessions as appropriate.”

Because the Office Action has admitted that Owen does not teach or suggest the claimed assistant entity, it is understood that Owen also does not teach or suggest wherein the assistant entity is configured to assist the first endpoint entity with a property of the existing communication system. Moreover, Owen does not teach or suggest selecting, by the service system, an appropriate assistant entity from a group of assistant entities based upon the determined context of the existing communication session. Further, Owen does not teach or suggest joining, by the service system, the selected assistant entity to the existing session.

Instead, as discussed above, the user agents are previously assigned to each user to assist their respective users with making calls and thus are not selected based upon a context of an existing communication session. In addition, because the user agent in Owen is actively involved in the calls made by the user, the user agent is also not joined into the existing session.

The Examiner relied upon Eichstaedt for its disclosure of a “customizable web filler for alleviation of network latency and delay” by “selecting based upon the determined context.” Office Action at 4. To be clear, Eichstaedt discloses that “filler content could also

be selected based on predetermined criteria, such as the context of the user's session." Col. 3, lines 9-11. Eichstaedt is directed to web filler that can be used to alleviate the problems of long latency or delay periods on the internet, wherein the presentation of the filler content keeps the user occupied during the period of latency or delay. Col. 2, lines 58-61. Eichstaedt is silent with regard to an assistant entity and the Examiner does not point to any teaching or suggestion of Eichstaedt of an assistant entity.

As such, Eichstaedt does not overcome the deficiencies of Owen. For instance, Eichstaedt does not teach or suggest wherein the assistant entity is configured to assist the first endpoint entity with a property of the existing communication system. Moreover, Eichstaedt does not teach or suggest selecting, by the service system, an appropriate assistant entity from a group of assistant entities based upon the determined context of the existing communication session. Further, Eichstaedt does not teach or suggest joining, by the service system, the selected assistant entity to the existing session.

The Examiner argued that it would have been obvious to "modify Owen in view of Eichstaedt to provide selecting based upon the determined context in order to provide a web filler to promote web sites, therefore allowing e-commerce activities." Office Action at page 4. However, as discussed above, the references, alone or in combination, fail to teach or suggest all the claim elements. Moreover, one of ordinary skill in the art would not have been motivated to modify Owen, as suggested in the Office Action, to include using the web filler of Eichstaedt, with a reasonable expectation of successfully arriving at the claimed invention. To be clear, the web filler of Owen does not equate with the claimed assistant entity at least because the web filler of Owen is not configured to assist the first endpoint entity with a property of the existing communication session. Moreover, the web filler of

Owen is not selected by a service system. So, for at least these additional reasons, one of ordinary skill in the art would not have been motivated to combine Owen and Eichstaedt with a reasonable expectation of successfully arriving at the claimed invention.

For at least the foregoing reasons, it is respectfully submitted that references, alone or in combination, fail to render obvious the claimed invention. The Examiner is therefore respectfully requested to withdraw the rejection of independent claim 1 and the claims that depend therefrom.

Claims 4-6, 11, 16, and 20

Claims 4-6, 11, 16, and 20 were rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Owen in view of Eichstaedt and further in view Brown.

Claims 4-6, 11, and 16 are dependent from independent claim 1. Thus, they are also believed to be allowable over Owen and Eichstaedt for at least the same reasons as set forth to independent claim 1 above. In addition, the Office Action relies upon Brown for its disclosure of the establishment of voice communications in an Internet environment. As such, the Office Action has not and cannot reasonably rely upon the disclosure contained in Brown to make up for the deficiencies in Owen and Eichstaedt discussed above with respect to independent claim 1.

Accordingly, even assuming for the sake of argument that one of ordinary skill in the art were somehow motivated to combine Owen, Eichstaedt, and Brown as suggested in the Office Action, the proposed combination would still fail to result in independent claim 1.

For at least the foregoing reasons, it is respectfully submitted that the references, considered individually or in combination as suggested in the Office Action fails to render

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claims 4-6, 11, 16, and 20 *prima facie* obvious. The Examiner is therefore respectfully requested to withdraw the rejection of these claims.

Conclusion

In light of the foregoing, withdrawal of the rejections of record and allowance of this application are earnestly solicited. Should the Examiner believe that a telephone conference with the undersigned would assist in resolving any issues pertaining to the allowability of the above-identified application, please contact the undersigned at the telephone number listed below. Please grant any required extensions of time and charge any fees due in connection with this request to Deposit Account No. 08-2025.

Respectfully submitted,

Dated: December 28, 2010

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